Danny J. Horen, Esq.
NV Bar No. 13153
Kazerouni Law Group, APC
7854 W. Sahara Avenue
Las Vegas, NV 89117
Telephone: (800) 400-6808x7
Facsimile: (800) 520-5523
danny@kazlg.com

David H. Krieger, Esq.
NV Bar No. 9086
HAINES & KRIEGER, LLC
8985 S. Eastern Avenue, Suite 130
Henderson, Nevada 89123
Phone: (702) 880-5554
FAX: (702) 385-5518
dkrieger@hainesandkrieger.com

*Attorneys for Plaintiff*
Saleh Elghasen

**UNITED STATES DISTRICT COURT**
**DISTRICT OF NEVADA**

| | |
|---|---|
| **SALEH ELGHASEN,**<br><br>Plaintiff,<br><br>v.<br><br>**RBS COMPUTER, INC., d/b/a ROYAL MANAGEMENT CORPORATION; and EXPERIAN INFORMATION SOLUTIONS, INC.,**<br><br>Defendant. | **Case No.:** 2:14-cv-01539-JAD-GWF<br><br>**FIRST AMENDED COMPLAINT FOR DAMAGES PURSUANT TO THE FAIR CREDIT REPORTING ACT, 15 U.S.C. § 1681, ET SEQ.**<br><br>**JURY TRIAL DEMANDED** |

///

///

## INTRODUCTION

1. The United States Congress has found the banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence, which is essential to the continued functioning of the banking system. Congress enacted the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* ("FCRA"), to insure fair and accurate reporting, promote efficiency in the banking system, and protect consumer privacy. The FCRA seeks to ensure consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy because consumer reporting agencies have assumed such a vital role in assembling and evaluating consumer credit and other information on consumers. The FCRA also imposes duties on the sources that provide credit information to credit reporting agencies, called "furnishers."

2. SALEH ELGHASEN ("Plaintiff"), by Plaintiff's attorneys, brings this action to challenge the actions of RBS COMPUTER, INC. d/b/a ROYAL MANAGEMENT CORPORATION ("Royal") and EXPERIAN INFORMATION SOLUTIONS, INC. ("Experian") (or jointly as "Defendants") with regard to erroneous reports of derogatory and negative credit information made by Defendant Royal to Experian, and for failure of

Defendants to properly investigate the disputed information, and this conduct caused Plaintiff damages.

3. Plaintiff makes these allegations on information and belief, with the exception of those allegations that pertain to Plaintiff, or to Plaintiff's counsel, which Plaintiff alleges on personal knowledge.
4. While many violations are described below with specificity, this Complaint alleges violations of the statute cited in its entirety.
5. Unless otherwise stated, all the conduct engaged in by Defendants took place in Nevada.
6. Any of Defendants' violations were knowing, willful, and intentional, and Defendant did not maintain procedures reasonably adapted to avoid any such violation.
7. Unless otherwise indicated, the use of Defendants' names in this Complaint includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers of Defendants' named.

## JURISDICTION AND VENUE

8. This Court has federal question jurisdiction because this case arises out of violation of federal law. 15 U.S.C. §1681 *et seq.*; 28 U.S.C. §1331; *Smith v. Community Lending, Inc.*, 773 F.Supp.2d 941, 946 (D. Nev. 2011). Jurisdiction arises for any of Plaintiff's supplemental state claims under 28

U.S.C. § 1367.

9. This action arises out of Defendant's violations of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681(x) ("FCRA").

10. Venue is proper in the United States District Court for the District of Nevada pursuant to 28 U.S.C. § 1391(b) because Plaintiff is a resident of Clark County, the State of Nevada. Defendant Royal is subject to personal jurisdiction in the County of Clark, State of Nevada as they conduct business there by reporting to major credit bureaus information about consumers such as Plaintiff, who is a Nevada resident. Therefore, the conduct giving rise to this action occurred in Nevada. 28 U.S.C. § 1391(b)(2). Further, Defendant Experian has a registered agent of service in Nevada and is listed with the Nevada Secretary of State as a foreign corporation doing business in Nevada.

## PARTIES

11. Plaintiff is a natural person residing in the County of Clark, State of Nevada. In addition, Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1681a(c). Defendants are corporations doing business in the State of Nevada.

12. Defendant Royal is a furnisher of information as contemplated by 15 U.S.C. § 1681s-2(b) that regularly and in the ordinary course of business furnishes information to a consumer credit reporting agency. Defendant Royal reports

to credit bureaus under the fictitious name of "Royal Management Corporation."

13. Defendant Experian is a national credit reporting agency, doing business in Nevada, with a principal place of business in Ohio.

## Factual Allegations

14. At all times relevant, Plaintiff was an individual residing within the State of Nevada.

15. At all times relevant, Defendant Royal conducted business in the State of Nevada by reporting to major credit bureaus information about consumers such as Plaintiff, who is a Nevada resident. Defendant Experian reported credit information regarding Plaintiff, a Nevada resident. Therefore, the conduct giving rise to this action (Defendants' erroneous credit reporting) occurred in Nevada.

16. Sometime on or about April 2008, Plaintiff allegedly incurred certain financial obligations, in the form of a personal loan (the "Loan") from Family Finance.

17. On or about May 17, 2010, Plaintiff filed for Bankruptcy in the United States Bankruptcy Court for the District of Nevada. Plaintiff's case was assigned Case Number 10-19019 (the "Bankruptcy").

18. The Loan was scheduled in the Bankruptcy and the Creditor received notice of the Bankruptcy.

19. Defendant Royal subsequently purchased, acquired, or otherwise obtained the Loan.

20. On or about June 7, 2010, a proof of claim [Claim #5] was filed on behalf of Family Finance in Plaintiff's Bankruptcy. In filing the proof of claim, it was requested all notices be sent to Defendant Royal's address in San Antonio, Texas.

21. Thus, Defendant was clearly on notice of Plaintiff's Bankruptcy.

22. On or about April 18, 2014, Plaintiff received a Bankruptcy discharge.

23. Defendant Royal did not file any proceedings to declare the Loan "non dischargeable" pursuant to 11 U.S.C. § 523 *et seq*.

24. Defendant Royal also did not request relief from the "automatic stay" codified at 11 U.S.C. §362 *et seq* while the Plaintiff's Bankruptcy was pending.

25. Accordingly, the Loan was discharged through the Bankruptcy.

26. Further, while the automatic stay was in effect during the Bankruptcy, it was illegal for the Defendant Royal to report any post-Bankruptcy derogatory collection information.

27. Defendant Royal's attempt to collect upon the account by reporting post-Bankruptcy derogatory information was therefore false or inaccurate and prohibited by the automatic stay or Discharge.

28. Plaintiff subsequently learned that Defendant reported post-Bankruptcy derogatory credit information regarding the Loan on Plaintiff's credit reports, thereby causing erroneous and negative credit information in Plaintiff's credit files.

**The Experian Misreported Credit Information**

29. In an Experian credit report dated August 5, 2014, Defendants reported the following account balances from November 2013 through May 2014 about the discharged debt (the "Disputed Information"):

- Nov13: $1,481
- Dec13: $1,481
- Jan14: $1,481
- Feb14: $1,463
- Mar14: $1,463
- Apr14: $1,463
- May14: $1,463

30. Defendants should have reported a "$0" balance due to the Bankruptcy. At a minimum, the May 2014 account balance should reflect a balance of "$0" resulting from Plaintiff's April 18, 2014 Discharge.

31. On or about August 28, 2014, Plaintiff disputed Defendants' reported information regarding the Loan pursuant to 15 U.S.C. § 1681I(a)(2) by

notifying Defendant Experian, in writing, of the incorrect and inaccurate credit information furnished by Defendant Royal.

32. Specifically, Plaintiff sent a letter, certified, return receipt, to Experian (the "Experian Dispute Letter"), requesting the above inaccurate and incorrect derogatory information be removed as follows:

- This account was discharged in my chapter 13 Bankruptcy which was filed on 5/17/2010 and discharged 4/18/2014, bearing docket No. 10-19019 in the District for Nevada. The balance on this account should "$0" and the status should be reporting as "current". Specifically, you show *Account balances* from Nov13 – May14

33. The Dispute Letter further requested that Experian:

- Immediately delete this account and the disputed derogatory information my [Plaintiff's] credit report.

- The discharged debt should be reported with an account balance of $0 with a status of "current".

- Further, there should be no post-bankruptcy activity reported on this account. The date of last activity on this account should pre-date my bankruptcy filing date, 5/17/2010, since a default on this account occurred no later than the Bankruptcy filing date.

- Any post-bankruptcy derogatory information should be immediately deleted from my report.

- If you do not immediately delete this from my credit report, please include a 100-word statement in my credit report of all of the disputed information contained in this letter regarding this account.

34. On or about September 9, 2014, Plaintiff received notification from Experian that Defendant Royal received notice of Plaintiff's dispute

pursuant to 15 U.SC. § 1681i(a)(6), and verified the account as being "updated".

35. Surprisingly, not only did Defendants fail to remove the previously reported derogatory information, Defendants also added new derogatory information during its reinvestigation. Specifically, Defendants reported the Loan was "Charged Off" from November 2013 and March 2014 causing further credit damage to Plaintiff.

36. Plaintiff believes, and therefore alleges, that Defendants, upon receipt of Plaintiff's dispute, failed to conduct an investigation with respect to the disputed information as required by 15 U.SC. § 1681s-2(b)(1)(A).

37. Plaintiff believes, and therefore alleges, that Defendants failed to review all relevant information provided by Plaintiff in the dispute to Experian, as required by and in violation of 15 U.SC. § 1681s-2(b)(1)(B).

38. Due to Defendants' failure to investigate, Defendant further failed to correct and update Plaintiff's information as required by 15 U.S.C. § 1681s-2(b)(1)(E), thereby causing Defendants to report inaccurate information to the pertinent credit reporting agencies in violation of 15 U.S.C. § 1681-s(2)(b)(1)(C).

39. Plaintiff's continued efforts to correct Defendant's erroneous and negative reporting of the Loan by communicating the dispute with Defendants was fruitless.

40. Defendants' continued inaccurate and negative reporting of the Loan in light of its knowledge of the actual error was willful.

41. Defendants' inaccurate and negative reporting damaged Plaintiff's creditworthiness.

42. By inaccurately reporting account information relating to the Loan after notice and confirmation of its errors, Defendants failed to take the appropriate measures as determined in 15 U.S.C. §§ 1681-s(2)(b)(1)(D) and (E).

## FIRST CAUSE OF ACTION
## VIOLATION OF THE FAIR CREDIT REPORTING ACT
## 15 U.S.C. § 1681 *ET SEQ.* (FCRA)

43. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

44. The foregoing acts and omissions constitute numerous and multiple willful, reckless or negligent violations of the FCRA, including but not limited to each and every one of the above-cited provisions of the FCRA, 15 U.S.C § 1681.

45. As a result of each and every willful violation of the FCRA, Plaintiff is entitled to actual damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(1); statutory damages pursuant to 15 U.S.C. § 1681n(a)(1); punitive damages as the Court may allow pursuant to 15 U.S.C. §

1681n(a)(2); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1681n(a)(3) from Defendants.

46. As a result of each and every negligent noncompliance of the FCRA, Plaintiff is entitled to actual damages as the Court may allow pursuant to 15 U.S.C. § 1681o(a)(1); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1681o(a)(2) from Defendants.

## PRAYER FOR RELIEF

Plaintiff respectfully requests the Court grant Plaintiff the following relief against Defendants:

### FIRST CAUSE OF ACTION
### VIOLATION OF THE FAIR CREDIT REPORTING ACT
### 15 U.S.C. § 1681 ET SEQ. (FCRA)

- an award of actual damages pursuant to 15 U.S.C. § 1681n(a)(1);
- award of statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);
- an award of punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2);
- award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1681n(a)(3), and 15 U.S.C. § 1681(o)(a)(1) against Defendants for each incident of negligent noncompliance of the FCRA; and
- any other relief the Court may deem just and proper.

///

///

## TRIAL BY JURY

47. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: December 5, 2014

Respectfully submitted,

BY: /S/ DANNY J. HOREN___________

DANNY J. HOREN, ESQ.
NV BAR NO. 13153
KAZEROUNI LAW GROUP, APC
ATTORNEYS FOR PLAINTIFF